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1
                SNOHOMISH COUNTY HEARING EXAMINER
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 3
     BSRE POINT WELLS, LP,
                    Appellant,
                                      11-101457 LU/VAR
 4
                                    ) 11-101461 SM
          vs.
                                      11-101464 RC
                                    ) 11-101008 LDA
     SNOHOMISH COUNTY PLANNING
                                      11-101007 SP
5
     AND DEVELOPMENT SERVICES,
                   Respondent.
                                    )
9
10
             VERBATIM REPORT OF RECORDED PROCEEDINGS
11
                           HEARING DAY 1
12
               BEFORE HEARING EXAMINER PETER CAMP
13
14
                           MAY 16, 2018
15
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2.0
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23
   RECORDING TRANSCRIBED BY:
24
    ELEANOR J. MITCHELL, RPR, CCR 3006
25
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2	
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2425	
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               EVERETT, WASHINGTON; MAY 16, 2018
 2
                             --000--
 3
             (Recording begins at 2:05 p.m.)
 4
 5
             (Proceedings begin at 2:05 p.m.)
 6
 7
                  THE HEARING EXAMINER: Good afternoon,
    everyone. Today is May 16, 2018. We be-
 8
9
             (Unintelligible discussion.)
10
                  THE HEARING EXAMINER: All right. Better?
11
             Sorry.
12
             File numbers are 11-101457 LU, 11-101461 SM,
    11-101464 RC, 11-101008 LDA, and 11-0101007[sic].
13
14
             My name is Peter Camp. I'm the hearing
15
    examiner. I'll preside over today's hearing.
16
             First, cell phones, let's please turn them off
17
   or set them to vibrate so we're not interrupted during
18
    the hearing. We'll find out what your ringtones are,
    and that will be extremely embarrassing, I promise you.
19
20
             Now, first, let me point out this is a
21
   quasi-judicial hearing. That's a fancy way of saying
22
   it's very much like a courtroom proceeding. So please
23
   act as if you were in a courtroom. Please be quiet.
24
   If you want to chat with your neighbor or take a cell
25
   phone conversation, please take it outside.
```

1 Now, I'm very proud of Snohomish County 2 residents. We have a history of respectful civic 3 discussion even when passions are aroused. I ran the airport for about eight years or supervised the 4 5 airport, and commercial air service was a little bit 6 controversial, but we could have respectful discussions 7 even when people were upset with each other. So -- and I know you'll do that in this proceeding. 8 9 So it's not a pep rally. It's not a sporting 10 So no cheering, clapping, booing. Don't do the 11 There's no -- no pep band's going to play wave. "Tequila" for us, none of that. Okay? 12 13 It's also not an election or a popularity 14 contest. The purpose of this hearing is to provide 15 evidence under oath regarding the proposed project so 16 that I may evaluate the proposed project against the 17 legal requirements for the project. 18 It's not an election. My authority is limited. I only have the authority given me by county 19 20 council. I'm authorized by county ordinances to review 21 the proposal for compliance with county ordinances and proposal -- and policies. 22 23 I'm not authorized to determine whether this is a good idea. I'm not authorized to determine 24 25 whether there's a better proposal or a better project

1 That's not how this works. My job is to out there. 2 evaluate the proposal against the law. 3 Now, verbal -- verbal public comment will start tomorrow at 1:00 p.m., and verbal public comment 4 5 will not be taken before then. I've read many of the 6 comments -- I especially enjoyed reading the 1912 7 newspaper articles that were attached to some of the submissions -- and I will continue to read them. 8 9 will read all of them at least once, if not more than 10 once, before we finish. It doesn't 11 So it -- I want to point out: 12 matter if there are a thousand comments saying this is good or this is bad. Again, the question is: Does the 13 14 project comply with the county development regulations? 15 That's the issue. So my opinion as to whether it's a 16 good or a bad project is utterly irrelevant. 17 And I'll repeat these comments again tomorrow before public comment so that others who aren't here 18 19 today will hear them, too. 20 Now, I have no direct or indirect family or 21 financial interest in this matter. The only contacts I've ever had about this project were when I was 22

executive director. I had two briefings on this way

back in the day. No direction was asked, nor was it

given, and I only remember that I had the meetings.

23

24

remember nothing else about the project.

So I believe I can fairly and impartially construct this hearing and make a decision. If someone thinks differently, they ought to say so at some point.

Okay. Moving on.

Now, my understanding is that PDS halted the work on the EIS and asked that the project applications be denied because of substantial conflicts with county code. I understand that BSRE disagrees with the County on that and asks that the project be remanded, that work proceed, and the expiration date of its applications be extended.

I understand that no one's asking this project to be approved in this proceeding. That's not before me. No one's asking me to approve the project. In fact, I think implicitly, people agree the project isn't ready for approval yet. And people may disagree with that, but that's not what's before me.

Again, I'm being asked to either deny the application because of substantial conflicts with county code or to remand for additional work and extend the deadlines for the expiration date of the applications.

Now, the schedule of the open-record hearing was the subject of a scheduling order that was issued a

month ago after a prehearing conference. So today, the 1 2 applicant will describe the project for the rest of the 3 afternoon. We will go until approximately 5:00. Tomorrow, the schedule calls for PDS to 4 5 describe its review of the project from 9:00 until 6 noon, with public comment, then, beginning at 1:00 p.m. 7 For those wishing to speak in public comment, 8 we will have sign-up sheets. Please keep your comments 9 short, approximately three to five minutes max. 10 pay close attention and may ask you questions. 11 Please remember that the volume of people 12 saying the same thing is not a factor in the legal 13 decision. If another person that spoke before you 14 summarized or captured your feelings adequately, feel 15 free to say, What she said, or, Me, too. And I'll, of 16 course, make a note of that. But, again, it's not an 17 election: I don't count how many said yes and how many said no. 18 19 And, again, no applause or cheering. This is 20 not a pep rally. 21 Then Friday, we'll continue with public comment beginning at 9:00 a.m., and we'll go until 22 23 we're done. And after that, when we're done on Friday with verbal comment, verbal public comment closes, but 24

I will continue to accept written public comment

```
1
    through the close of the open-record hearing.
 2
    again, I will read everything.
 3
             Next week, the schedule currently calls for
 4
    testimony from the witnesses from the applicant and
 5
    from PDS.
 6
             Now, no plan survives contact with reality. I
 7
    tried many cases as a litigator, and I know that no
 8
   trial plan survives past opening statements. We will
9
   be flexible, guided by the requirement to be fair and
10
   to allow people to be heard.
11
             Now, PDS asks the schedule be altered because
    of resent submissions by BSRE. Specifically, PDS asks
12
13
    that its presentation be delayed and the testimony of
14
   witnesses by BSRE and PDS scheduled for next week be
15
   continued for a week to allow PDS to review the new
16
    submissions.
17
             So, at this point, let's talk about that.
    It's PDS's request, so they'll go first. Then I'll
18
19
    turn it over to BSRE. Fair enough?
20
             Now, the first time you speak on the record,
21
    don't do -- don't be like me: Don't leave your
22
   microphone off. Make sure the bright green light is
23
    on. Make sure the microphone is on. Introduce
24
   yourself with your name and your affiliation and -- and
25
   so forth.
              Okay?
```



So I'll turn it over to PDS.

MR. OTTEN: Thank you Mr. Examiner. For the record, Matt Otten, land use attorney with the prosecutor's office, representing the planning and development services department.

As you mentioned, PDS did raise a request to continue the matter yesterday afternoon. As you may be aware, the applicant submitted eight substantive application materials yesterday at 4:00 p.m. And to clarify, opposing counsel did notify me on Friday that additional materials were coming; they didn't tell me when or what they would be.

In the applicant's prehearing brief, which was filed on Monday, they addressed -- they claimed to address that these materials, in addition to the previous submittal, addressed every single issue that PDS has raised and had resolved every issue of substantial conflict with the code.

Their allegation was, as a result of these new submittals, they claim this hear- -- hearing is no longer relevant bec- - - because PDS is reviewing an application that has been stan- -- substantially revised -- or PDS is reviewing an -- the past application, now they have a substantially revised application, and as a result, the recommendation is

I -- and in response to that, the -- the -
PDS's -- thinks it's reasonable to request a one-week

continuance in order to address their concerns in order

to allow PDS to review the new application materials of

the eight substantive exhibits they -- they presented

7 against the remaining issues of substantial conflict to 8 ensure that the hearing be relevant, in their terms.

We did receive the written objection from the applicant. I want to address those real quickly. One they claim the continuance will cause them irreparable harm and significant cost because they already have scheduled the witnesses.

And -- but, in response to that, I'd say if -if they claim that the hearing is moot and no longer
relevant, it's sort of a wasted cost for the witnesses
in the first place.

And after claiming in their pre- -- secondly, after claiming in the prehearing beef- -- brief that substantial -- their substantial revisions addressed every issue and defect in the application, they responded to -- with their objection that, Oh, these materials are mere clarifications; you don't need additional time to look at them. So that was a little odd.

Is it -- thirdly, PDS doesn't have a week to review these submittals as claimed. They were submitted last night or yesterday afternoon. They -- we have three business days -- today, tomorrow, and Friday -- which most of our staff is occupied here in the hearing, including the ones that have to present the PDS's staff recommendation.

And, fourth, they claim they advised us last Friday that they were dumping more appliment- -- application materials last minute, and it's not prejudicial because they let us know. That's a bit absurd because we didn't know what they were submitting.

So we'd -- we'd just renew our request for a one-week continuance. I presented sorted details on how that would work. We'd still take public comment, that -- the public has been noticed; they still have a right to comment. And we could allow the PDS witnesses to resume after we had -- we already had the -- the day scheduled and that -- I detailed that in the -- the written communication.

And as -- as an alternative, because the applicant does object based on the prescheduled witness issue, we also propose, as an alternative to just doing a one-week continuance, that we allow the applicant's

```
witnesses to present next week as planned -- that way,
 1
 2
    it fits in within the scheduling issues that the
 3
    applicant has concern with -- and re- -- resume the
   hear- -- after they conclude the applicant's witnesses,
 4
 5
   we'd resume the hearing a week after conclusion of that
 6
    testimony, just for two days of the PDS staff to
 7
   present. We think we -- we only have four witnesses.
 8
   We think we can conclude within two days, depending on
9
   how much time cross-exam takes by the applicant.
10
             And that is -- after all, it is the County's
11
   burden to establish that the applicant has -- the
12
    application's substantial conflict with the code.
    think either of these options will both ensure a
13
14
   relevant hearing and a fair hearing.
15
                  THE HEARING EXAMINER: So let me see if I
16
    understand you correctly. What you're suggesting is
17
    that we proceed this afternoon with the applicant's
18
    description of the project, we forego PDS's
19
   presentation tomorrow morning, we then have public
20
   comment tomorrow afternoon and Friday as planned, then
21
    we commence again Monday with the applicant's witnesses
22
   as planned.
23
             And when they finish, then we recess and then,
24
    starting the following week, with the County's
25
   witnesses; is that right?
```

```
1
                  MR. OTTEN: It'd be -- that was the
 2
    alternative that you -- that you just laid out, as
 3
    opposed to the strict --
 4
                  THE HEARING EXAMINER: Okay.
 5
                  MR. OTTEN: -- one-week continuance.
 6
                  THE HEARING EXAMINER: So that was -- that
 7
   was EIS sc- --
 8
                  MR. OTTEN: That was al- --
9
                  THE HEARING EXAMINER: -- alternative 2.
10
                  MR. OTTEN: That was.
11
                  THE HEARING EXAMINER: That was -- that --
12
   and --
                  MR. OTTEN: Alternative 1 would be we
13
14
   strike -- neither party needs to present next week. We
15
   start following Memorial Day Weekend.
16
                  THE HEARING EXAMINER: And the no-action
17
   alternative is --
18
                  MR. OTTEN: Yeah.
19
                  THE HEARING EXAMINER: -- to stick with
20
    the original schedule?
21
                  MR. OTTEN: The -- yeah. And --
22
                  THE HEARING EXAMINER: Okay.
23
                  MR. OTTEN: -- the other one would be that
    the s- -- the applicant's experts present, as
24
25
   scheduled, next week, and then we take the following
```



```
1
   week off that -- because our staff is going to be in
 2
    the hearing listening to what the experts say. We need
 3
   to provide them time to report back to Mr. Countryman,
 4
    who's the one that presents the staff recommendation.
 5
             And then resume -- I don't know. I think
 6
    that's June 2nd or what- -- whatever week that follows.
 7
                  THE HEARING EXAMINER: Okay. Counsel.
 8
                  MR. VASQUEZ: Your Honor, Dino Vasquez,
   Karr Tuttle, on behalf of applicant.
9
10
                  THE HEARING EXAMINER: Is your microphone
11
    on? I made that mistake.
12
                  MR. VASQUEZ: You said this is on
13
    [unintelligible] --
14
                  THE HEARING EXAMINER: If it's green.
15
                  MR. VASQUEZ:
                                Yeah.
16
                  THE CLERK: [Unintelligible].
17
                  THE HEARING EXAMINER: Pull it a little
   bit closer, then, perhaps.
18
19
                  MR. VASQUEZ: How about this?
20
                  THE HEARING EXAMINER:
                                         Thank you.
21
                  MR. VASQUEZ: Thanks. Your Honor,
22
   yesterday was the first we heard of this request for a
    continuance, so, therefore, it -- it kind of took us
23
24
   off guard.
25
             One of the issues that we have -- and I -- I
```

think we addressed it in our objection -- is that we 2 have a substantial number of consultants that are 3 scheduled to testify either this week or next week, depending on how this goes. 4 5 But we don't know what their schedule is 6 following next week. We have not been able to contact 7 all of them. We have, you know, no idea what their 8 availability is. It's a substantial expense to the 9 applicant to reschedule all these witnesses, and it's 10 also, you know -- the irony isn't lost on me that an 11 extension is being requested while this hearing is 12 actually about an extension. 13 But, nevertheless, having said that, that's 14 the primary concern. And if the burden of proof truly 15 is with the -- with the County, then it appears to me 16 that the County should go first. We get to rebut their

testimony, and then they get to rebut whatever -whatever we've offered. So I think the order needs to stay the same way.

And then, if it doesn't get to stay the same way, then we have the issue of our opportunity to address what the County's testimony is at the end of their presentation, as well, with additional witnesses or with witnesses that need to be available.

So it really is kind of a -- an issue for us,

17

18

19

20

21

22

23

24

```
1
    Your Honor. At -- you know, it's eight documents
 2
    that -- that were sent over to the County. And as I
 3
   recall from the last hearing, I mean, the County's
 4
    invitation was to present us an opportunity to provide
 5
    them with additional information that they would
 6
   review.
 7
             So I'm not sure I really understand the -- the
 8
    surprise and unfairness. But having said that, you
9
   know, it's -- it's your call. So...
10
                  THE HEARING EXAMINER: Anything further,
11
   Mr. Otten?
12
                  MR. OTTEN: I would just point out that
13
    this is a -- a creation of the -- the applicant's own
14
    creation by submitting these literally the day before
15
   hearing. And -- yeah.
16
                  THE HEARING EXAMINER: So --
17
                  MR. OTTEN: I -- and the both -- the two
18
    solutions we propose, they don't like either one. So
19
    if they have a solution that they think's fair, I'd --
20
    I'm happy to hear it.
21
                  THE HEARING EXAMINER: Procedurally, it's
22
   a bit of a dog's breakfast anyway for a number of
23
   reasons. But I propose, and what we're going to do, is
   we're going to stay on the same schedule. Not --
24
25
             And I'm -- I'm not impressed by the -- the
```

```
1
    cost to the applicant because this is a very expensive
 2
   project to start with. The applicant has said you've
 3
    spent millions on it already and a few tens of
 4
    thousands of more is -- is chump change in this case.
 5
             But, more importantly, scheduling witnesses
 6
    is -- becomes geom- -- varies geometrically with the
 7
    number of witnesses you have to schedule. And so the
 8
   problem is rescheduling everything on fairly short
9
   notice. And the County's position is this applica- --
10
    these applications expire quite soon. So we need to
11
    get on with this one way or the other.
12
             Now, maybe things change next week.
13
          But right now, let's proceed as planned, and
   know.
14
    then we'll see what happens from there. Okay?
15
                  MR. OTTEN:
                              Okay.
16
                  THE HEARING EXAMINER:
                                         Thank you.
17
             So, having said that, so what I'm going to do,
   by the way, is for the presentations and for the
18
    testimony next week, I will swear witnesses in
19
20
    individually. For public comment, I will swear the
21
   public in en mass at the beginning of each session so
   that we 're not consuming time with each and every
22
23
   public comment being -- it needs to be sworn, but let's
24
    do it all at once. Okay? Fair enough?
25
             So, Mr. Vasquez, do you want to start with
```



```
1
   your presentation?
 2
                  MR. VASQUEZ: Okay. Thank you, Your
 3
   Honor. My partner, Mr. Huff, is going to present the
   project as well as our -- our witness Mr. Seng, Dan
 5
   Seng.
 6
                  THE HEARING EXAMINER: Okay.
 7
                                   I'm Gary Huff -- I'm Gary
                  MR. HUFF: Yes.
8
   Huff, land use counsel for the application. Now,
9
   you've met Mr. Vasquez. We also have Doug Luetjen and
10
   Jacque St. Romain for our firm. Dan Seng is our
11
   project architect. We also have Steve
12
   Ollenkamp[phonetic], government affairs, here, and Mark
13
   Wells, the future mayor of Point Wells, is in
14
   attendance. So -- he won't be participating, but he
15
   has an active interest.
16
            We'd like to start out with -- with Dan Seng
17
    showing a video of the project plans, and then we'll go
18
    on to our presentation.
19
                  THE HEARING EXAMINER: Okay.
20
            Mr. Seng, let me swear you in first, and let's
21
   have you introduced on the record before you play the
22
    video. Okay? Just stay- -- just stand there.
23
24
             (DAN SENG sworn.)
25
```



```
1
                  THE HEARING EXAMINER: Name and address,
 2
   please. And that microphone is always on. Now, you
 3
   can pick it up and carry it around with you, if you
 4
   wish.
 5
             So could you please introduce yourself on the
 6
   record.
 7
                  MR. SENG: Dan Seng.
 8
                  THE HEARING EXAMINER: Thank you.
9
                  MR. SENG: Hello, my name is Dan Seng.
10
    I'm an architect with Perkins and Will.
11
                  THE HEARING EXAMINER: Okay. Thank you.
12
                  MR. SENG: What I'm about to share with
13
   you is --
14
                  THE HEARING EXAMINER: Okay. You need to
15
   pick up the microphone. Yeah. You -- see, the problem
16
    is, is -- for example, I turn my head like -- she can't
17
   hear me. So you need to -- and that, just pick it up
   by the base and carry that with you. You can carry
18
19
   that around.
20
                  MR. SENG: Okay.
21
                  THE HEARING EXAMINER: Great.
                                                 Thank you.
22
                  MR. SENG: It's almost like carrying a
    trophy.
23
            Thank you.
24
             What I'm about to share with you is a
25
   presentation we prepared last summer. You may see some
```

```
1
    slight differences between what's in this video and
 2
    some of the application materials that have been
 3
   submitted since then. But, by and large, it is more --
    it is the design in its current form.
 4
 5
             And the -- the point of sharing this is to
 6
    illustrate what the -- the intent of the design is and
 7
    to give a visual representation as sometimes it's hard
8
   to achieve that with just the 2-D drawings that are
9
    submitted in the -- in the application.
10
                  THE HEARING EXAMINER: And is this already
11
    an exhibit in the...
12
                  THE CLERK:
                               No.
13
                  THE HEARING EXAMINER: Okay. So at some
14
   point, we'll need to make this an exhibit.
15
                  THE CLERK:
                               P-1.
16
                  THE HEARING EXAMINER: It'll be Exhibit
17
   P-1.
18
                  MR. SENG: There is some audio associated
19
   with this. Is there a way to turn on the --
20
                  THE CLERK: [Unintelligible].
21
                  THE HEARING EXAMINER: Yeah. It's -- it's
   a standard Windows 10 interface. Close. To the -- no,
22
23
    to the right. There. And...
24
             (Video begins.)
25
                  THE HEARING EXAMINER: There we go.
```

1 MR. SENG: Thank you. 2 So, in this view, you're hovering over the 3 upper bluff and the upper bench of the east side of the 4 site, crossing over the train tracks. 5 Now, we're navigating along the south side of 6 the site, what the project terms as South Village. 7 Looking north past the Central Village and 8 along the esplanade. 9 Entering into the Central Village, there's a 10 playground area planned. Between the towers and 11 looking north to the North Village. 12 (Video ends.) THE HEARING EXAMINER: Mr. Huff, if you're 13 14 more comfortable, either -- either location is fine for 15 counsel. 16 MR. HUFF: [Unintelligible] here. 17 THE HEARING EXAMINER: Okay. Just make sure you grab the microphone and speak into the 18 19 microphone. Thank you. 20 MR. HUFF: So you said this is on all the 21 time. 22 THE HEARING EXAMINER: Yes. 23 MR. HUFF: I can tell it is. 24 My job, at this point, is to give a brief 25 introduction and history of the project and how we got



```
1
           Then, Mr. Seng will come back and talk some more
   here.
 2
    about the changes that have been made in an overall --
 3
    in an overview to the application and response to the
 4
    County's review letter. Then, we'll come back with
 5
    individual consultants next week to flesh that out and
 6
   provide more detail.
 7
             For our purposes, the start of the story of
    the Point Wells urban center began in 2009 and 2010
 8
9
    when the County amended its comprehensive plan, adopted
10
    Chapter 30.34A, the Urban Center Code, and designated
11
    Point Wells as an urban center. These actions, in
12
    large part, satisfied the County -- the mandate to the
    County to accommodate, or plan for the accommodation,
13
14
    of its share of growth under the Growth Management Act.
15
   And the council decided, in its wisdom, that Southwest
16
    Snohomish County, and particularly Point Wells, was the
17
   place that that population growth should be
18
    accommodated.
             Following the council's actions, we submitted
19
20
    our urban center application and supporting documents
21
    for the development of a mixed-use urban center,
    including 3,081 residential units, approximately
22
```

23 32,000 square feet of office space, and 94,000 square
24 feet of retail.
25 We believe -- and many others do, too,



1 although certainly unanimous -- that this is an ideal 2 site for this kind of a development. It's 61 acres 3 under a single ownership on Puget Sound with two-thirds of a mile of beach. The site is bifurcated by the 4 5 Sound Transit commuter rail. And it's also true that this site has been dedicated to petroleum uses for over 7 a hundred years, and it is in need of remediation. 8 This redevelopment will allow that to occur and to provide for public access to the beach, to the dock, 9 10 and to the overall development. 11 Now, the Environmental Impact Statement for 12 the comp plan change addressed a proposal of 3500 -- so 13 a conceptual proposal; there wasn't a plan for that. 14 But even then, at that density, the conclusion of the 15 EIS was that there was -- that the traffic, which was 16 the major impact, was capable of mitigation. And we 17 took that and decided what we thought would best fit 18 the site. Our application is complicated due to the fact 19 20 that we are in unincorporated Snohomish County, but 21 traffic being a major impact, those impacts will be 22 incurred by the City of Shoreline and King County. 23 we have cross-boundary issues. Shoreline plays a 24 significant role in this. And we recognized early on 25 that we need to deal, not only with the county, but

1 with Shoreline, to come up with an acceptable plan. 2 Being an urban center, the code provides and dictates the minimum standards that come into play 3 here. One of them is floor-area ratio: for every foot 4 5 of area, one -- a minimum of one square foot of 6 development must be provided. 7 Our site is 2,653,000-plus square feet, and 8 our proposed square footage is nearly identical to that 9 area. We are a surplus over the minimum of 10 10,000 square feet at this point, so it's essentially 11 an FAR of 1.0. 12 The county code, not the urban center code, 13 but other portions of the county code also require 14 secondary access if a development will generate average 15 daily trips of more than 250. It doesn't take much to 16 get to 250 trips per day, so we need to be able to 17 comply with that requirement unless we can get a deviation. 18 There's been an evolving County position, 19 20 which we'll go into in more detail later, but suffice 21 it to say that that has been a moving target difficult to achieve, but we believe that we have the -- the 22 23 solution before us, and you'll be hearing more about 24 that.

One of the other complicating factors has been



the fact that the literate language of the code requires a generalized site plan. It does not require construction-level detail or drawings. Yet, the amount of detail that has been asked of us, we think, goes well beyond what the code requires. There is a letter, Exhibit G-4, which we don't need to read now, but it's a -- a letter from me to Ryan Countryman complaining about that issue and arguing that the County has gone beyond what's reasonable. And that has added a significant level of complication to the process.

We are now seven years and over \$10 million

We are now seven years and over \$10 million into the process of pursuing this application. And the County now says seven years is too long for an application to be pending, and it seeks that the application be terminated. That position ignores the County's own very large role in the reviewed time frame and the complications that -- that have come into play in what we believe is the most complicated application in the history of the county.

The County's position ignores the logical sequence of planning. Traffic is the key issue. The first thing we have to do is solve traffic, and that will drive the rest of the design decisions. But the County's approach takes the form of saying that all the issues must be resolved now, that there can't be things

like an agreement to provide Sound Transit service -
to finance a station and have that available as a

condition of approval.

The County wants letters from Sound Transit;

it wants letters from Burlington Northern about usage

it wants letters from Burlington Northern about usage of the tracks. These are all things that we have worked on, but we're told, It's too early: Come back to us when you have an approved project so we know that this is real, and we won't be wasting our time.

So that's the approach we've taken. That's the only approach we can take. But that doesn't mean that, without these now, that the project can't be approved.

Now, almost half of the time from our project application has been consumed by litigation involving the legal sufficiency of the County's actions in adopting the planning documents I referenced earlier and in creating the urban center's code. And that litigation started shortly after our application who date, which was May 4, 2011.

There was an appeal to the growth management hearing board. There was an issuance of an injunction against the County issued by King County Superior Court, mandating that the County stop further processing of our application until this matter was

1 That wound up going through the Court of resolved. 2 Appeals and eventually to the Supreme Court, and we got 3 a decision there on April 10, 2014. So that's over three years that was dedicated to litigation. 4 5 During that time, we assisted the County in 6 complying with the hearings board order, and that wound 7 up involving the creation of a less-dense alternative 8 under the planning ordinances and -- that's the urban 9 village alternative. That took an additional two years 10 to accomplish that result. 11 Once those issues were resolved, we turned to 12 traffic because that was the key component in really 13 resolving all of these issues. The City of Shoreline, 14 obviously, is a major player in that, and they will 15 bear the burden of these traffic impacts. 16 negotiated with Shoreline on a process for their public 17 involvement to come up with a plan on how we would 18 design and mitigate roads and impacts within the city. We met with the County and told them, This is 19 20 what we plan to do. And they said, Great, if you 21 satisfy Shoreline, we're happy. 22 That led to a process that involved over eight 23 public forums, and that took an additional 18 months

for that to be completed. We, then, went --

I don't want to imply that that process is



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              We made a lot of progress, but there are
 2
    still some issues with Shoreline that need to be
 3
    finalized, and their council will need to take some
 4
    action to approve some amendments to their planning
 5
    documents. But we made a lot of progress, enough that
 6
    we felt we could proceed with the EIS.
 7
             But our EIS sult- -- consultant advised -- not
 8
    our EIS consultant. The County's EIS consultant
9
    advised both the County and us that the kinds of
10
    transportation issues we were dealing with should be
11
    covered in a -- in an agreement upfront as to how the
12
    additional study would be accomplished. And the title
13
   of that document was a Methods and Assumptions
14
   Agreement relating to how transportation would be
15
   covered.
16
             We thought that would be a fairly easy
17
    agreement to do since we had already undertaken these
    efforts with Shoreline, but that took an additional
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19
    13 months to get the County to agree with that process.
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   And one of the key issues that lingered for years has
21
    to do with internal capture. And I need to explain,
22
    generally, what that is because it plays such a
    critical role in how we are approaching traffic
23
24
   mitigation.
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                  THE HEARING EXAMINER: And -- and my
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understanding is that that is the num- -- the assumed number of trips that would stay within the development and that wouldn't leave the development.

MR. HUFF: Right. The literature says that, at about 3,000 units, there is enough density to support onsite retail, office, those kind of things. That keeps those trips from going out into the regular road network.

And it became obvious early on, both in conversations with Shoreline and with the County, that we were never going to agree on an appropriate internal capture rate. This is a unique site, and there just isn't anything -- another comparable to look at to see what their experiences has been so that that can all be tied into that.

And so we proposed that -- instead of worrying about internal capture, that we establish a cap on the number of trips, and that that be enforceable, and that, if we reached that cap before we finished the development, that's our risk. That's too bad. We -- we won't be able to proceed. The County thought that was a good idea, at least verbally, and we proceeded on that basis.

Then, we began to review letters, which kept talking about things like disagreement on -- on

1 internal capture, and we said, We've covered this; 2 we're dealing with this by a trip limit. And we were 3 stonewalled. 4 We asked that they bring in their peer-review 5 consultant, the County's peer-review consultant, 6 Transpo, to advise on the normality and the utility of this kind of approach. And it took a year to get the 7 8 County to bring Transpo in to a meeting, at which 9 point, they almost immediately said, Yeah, that's done 10 all the time. We can do that. You can do that. 11 Here's some language for you to build into your 12 approval conditions so that that becomes enforceable, 13 and it's a reasonable way of mitigating traffic. 14 was another considerable period of time that shouldn't 15 have happened if we had had a more responsive reception 16 or follow-through from the County. 17 Now, we have been castigated as the party responsible for delay. If it was totally our fault --18 and I don't claim that we're blameless, but if it was 19 20 totally our fault, then there was no reason for the 21 deputy director to apologize to us on several occasions for the delay in the County's responses. 22 23 So now, we're approaching the June 30th 24 deadline. And this is important because the County has

decided, for whatever reason, now that no other

1 extension will be granted by the County. This is -- is 2 only an issue because after the County -- after we 3 replied to the County's prior comment letter and made a submission -- revised submission in April of 2017, we 4 5 were promised a fairly quick turnaround on those 6 comments, which would have given us plenty of time to 7 respond to those by the June 30th deadline. 8 Instead, we didn't get the comments until 9 October 6th, over six months later. That was one of 10 the occasions where we received an apology for that 11 delay. The point is that we're only -- well, not only, 12 but we're, in large part, in this position because we 13 haven't received comments in a manner giving us enough 14 time to respond in a timely way. 15 Now, our -- I've been the primary land use 16 attorney on this project, and we've dealt primarily 17 with Ryan Countryman. And I appreciate Ryan; he's been 18 good to work with. And I remember a number of occasions where he has said to me, A normal project of 19 20 anywhere near this magnitude usually takes seven or 21 eight go-arounds of submittals and reviews to get to an approvable project. I didn't really want to hear that, 22 23 but that was what he said was typical: It's the 24 process, and it should be anticipated here.

We just submitted our -- made our third

submittal. So we are well short of what the County
views as standard, yet are told that there's no time
for the process of -- of coming together to refine the
project to take place.

PDS represented to us, both -- on numerous
cocasions, both orally and in writing, that -- should
we need another extension, that one would be available

occasions, both orally and in writing, that -- should we need another extension, that one would be available. Ryan sent a letter on May 2, 2017, which gave the one-year warning that is talked about in their brief but also concludes by saying, If you need another extension, let us know by May 30, 2018.

We're not even there yet. But that letter said, If you need more time, let us know.

The most recent such representation occurred on November 13th of 2017 at a meeting in PDS's offices with our representatives, our consultants, PDS staff, department management, and a member of the prosecuting attorney's office.

This is following the October 6th letter from the County that said you need to submit by January 8th. Mr. Seng prepared a Gantt chart showing the timing and the sequence of all of the elements that were required to be addressed in a timely manner to respond to the County, and it showed that it was not conceivable as of that date to comply with the January 8th deadline.

1 We were told, That's only a target. It's not 2 a deadline. Let us know by January 8th how much time 3 you'll need. And then the conversation turned to the 4 5 January 30th deadline, because that was still looming 6 out there. And we asked -- Mr. Luetjen specifically 7 asked the question: Is there any reason to expect that 8 an extension would not be granted? And we were assured 9 uniformly that there was no reason to expect that there 10 would not be another continuance. 11 So we said, in our letter to the County before 12 January 8th, that we would be able to submit our 13 revised application by the end of April. We did that: 14 We did exactly as we've said and submitted it on 15 April 27th. 16 The County, then, did a supplemental 17 recommendation, which we thought contained some factual 18 errors and some misinterpretations, and so that's why 19 we submitted these responsive documents yesterday. 20 That's only a week -- less than a week following 21 receipt of the County's supplemental recommendation. 22 In their letter, PDS said, We're not going to 23 accept any more documents from you -- this is back in

January. This doesn't mean that you shouldn't continue

to work on the project and submit them to the examiner



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for his consideration as part of a request for an extension.

I read that, in part, as an invitation to keep working on the project. While they first said they wouldn't consider them, they obviously have, so there's been a softening of position there. And we -- we did everything we could to respond fully to the comment letter. And we agreed that the -- one approach would be to take the comment letter, reproduce it with space for our answer following each comment. We did that. It's a long document, but it's Exhibit G-14, and it shows our response to every one of those examples.

So last week, the County issued their supplemental recommendation, and the number of issues were substantially diminished. There -- there are still several, but we don't think they're substantial, and we think that our filing as of yesterday addressed those.

Some of those can be easily disposed of. For example, one of the alleged deficiencies is that there was supposedly a shortage of 500 parking spaces. That would be a major concern, if that was true. It's not true. There is the appropriate number.

The problem was we used the definition of a senior housing unit from the ITE Trip Generation

Manual, which provided for a -- a 55 age limit to qualify as a senior unit. It was pointed out that the county code defines senior unit as above 62. So it -- the easy solution was to change our definition of a senior unit, which will apply throughout the project, to 62. That means that those do now qualify for the reduction. There's enough parking. There's more than enough parking; we have a surplus.

All the other issues now in the supplemental application or supplemental filing fully address the County issues. There are a number of other things that we did in -- recently in our supplement to clarify things and to make this a more workable situation.

We added language -- we -- we did a supplement to the application that incorporated the trip limit for County purposes and provided a mechanism for enforcing them.

We committed to privately fund, if not otherwise available, a private bus service to take people from our site up through the community both to the Edmonds Park&Ride and to the current Park&Ride at 192nd and Aurora. The light rail station at 185th will be operable before our project will, so it will, I'm sure, extend all the way to the light rail station.

And we reinforced our commitment to fund the Sound

1 Transit station on our property. 2 The recommendation, and then their supplemental recommendation, reflect what we d- --3 4 believe to be unreasonable positions. We, at one 5 point, had a great working relationship. As a -- as an example, there were issues about fire department 7 requirements for access to all sides of the building. 8 A meeting was set up with the fire marshal's office. 9 Dan Seng went. Ryan was there. And everyone I talked 10 to afterwards said, That was a really productive 11 meeting. We got through a lot of issues and resolved 12 things in a very efficient manner. Unfortunately, wan-13 -- whatever happened that made the County change its 14 position regarding extension, all communication with us 15 stopped. 16 We tried to set another meeting, which 17 basically in -- involved us sitting around a table, 18 asking questions and getting blank stares in return because there'd been direction not to communicate with 19 20 us. 21 So our submittal dealt with the eight mea- --22 measures -- major areas of conflict that the County, at 23 that time, said existed. Then, in their s- -- in their recent recommendation, they said they were down to 24 25 five. But even in those five major issues, the number

of subissues was greatly diminished, and what -- what remained, we believed, were adequately addressed in yesterday's filing.

But it's of grave concern to us that the recommendations reflect selective memory on the part of the County that ixnored[phonetic] -- ignored many of the conversations than what we thought were agreements that we had. Regardless of that, we have, I think, gone beyond what we had previously agreed to, or thought we'd agreed to, and provided complete responses.

One example of what we think is overreach is the second access road. The second access road runs from the eastern portion of our site up to 116th, but it is entirely outside Snohomish County boundaries. It's within the town of Woodway. It's on property that we own -- or largely on property that we own. And the original approach had been, Show the second access on the map but note that it's not within the County's jurisdiction. It's -- it had to be approved by Woodway.

That made sense. Yet, we continued to get
more and more demands for engineering studies, lane
configurations, things that were beyond what we thought
were the County's purview -- it should have been

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    Woodway making those decisions -- and a permit
 2
    condition that said, You must get approval from Woodway
 3
    for a second access. It was more than reasonable.
             Another issue that has been one of the ones of
 4
 5
    greatest concern has to do with the setback for tall
 6
   buildings from the lower density zones in -- in the
 7
    town of Woodway.
 8
             Drew, can you bring up that picture?
9
             Here's the second access road that I described
10
    running up to 116th.
11
                  THE CLERK: [Unintelligible].
12
                  MR. HUFF: This is the second access road
13
    running up to 116th. This -- this is the boundary --
14
    whoops, the boundary of our project. This is Woodway
15
   here and here. This is unincorporated Snohomish
16
   County.
             So technically applied, this is low-density
17
    residential zoning in Woodway, and it would require
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    significant setbacks from the property line so that
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20
    these buildings could not be built.
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             We think that makes no sense because this is a
    220-foot bluff. There are no houses until -- at
22
23
   present until the top of that bluff. This is a logical
24
   place to put buildings because they're tucked up
25
   against the hillside and have no view impact. So --
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We realize what the code says, though, so we have applied for a deviation request suggesting that this is the most appropriate site. And the County's position remains: You're violating that setback requirement; therefore, there's a significant fon---conflict, and your application should be denied.

That ignores the possibility that the application will be granted -- or that the deviation request will be granted or, if not, that we couldn't redesign that portion of the project to move some of those units and there -- thereby, literally comply with the requirement of the ordinance language.

But the County doesn't appear to think that that's an appropriate response. It appears to be that, as of today, there is this conflict, and so this should be denied.

The other part of this is that

Section 30.34A.040(1) places limits on the height of
buildings. Those buildings are tall, as I mentioned,
because they're up against the 220-foot slope. And
that section limits buildings to 90 feet in height,
except where additional height is documented as being
desirable when the project is located near a
high-capacity route or station and when an EIS is
prepared which addre- -- addresses certain relevant

1 factors. 2 The EIS was started. The view analysis has 3 been conducted. I think literally read -- and we're not relying on this, but literally read, that says: 4 5 When the project is located near a high-capacity line. 6 We're definitely near. But we don't argue 7 that that alone satisfies this. 8 Now, you'll hear a lot about this, but we 9 can't rely on that applica -- or that interpretation, 10 so we -- we plan to do more. We've made that request 11 for a variance. 12 We have also talked with Sound Transit at 13 length and, again, told them we're interested in the 14 station. There's correspondence of record in the -- in 15 the file where Sound Transit has written us, said, 16 We're interested in a station there. We don't have the funding for it. If -- we'll be much more interested if 17 18 you'll commit to the funding, but it is too early. We -- we've been told that we need about a 19 20 thousand occupants on site to justify a stop there. 21 can reach that fairly early in the project, certainly in Phase II, if not Phase I. 22 23 Sound Transit also adopted a long range 24 service plan several years ago, and they went through

the SEPA process and solicited comment. We submitted a

1 comment letter asking that Point Wells be designated as 2 the site for a future station. 3 The answer, in their response to the EIS --4 EIS comments, was that that wasn't necessary because a 5 station at -- in Richmond Beach was already 6 contemplated by the plan, not expressly mentioned, but 7 it was within the purview of the existing plan authorization and could be built without an amendment 8 9 to the plan. 10 They go on in the -- in the appendix to the 11 responses in the EIS -- and this is again all in the 12 record -- that -- they list specific projects as examples of ones that could be built under the existing 13 14 authorization. Richmond Beach is explicitly mentioned. 15 This comes back to the County position that we 16 do not have a current commitment from Sound Transit for a station there. Therefore, you can't build more than 17 90 feet tall. And frankly, we're insulted by the 18 prehearing memo which said that we have -- we are less 19 20 near resolution of that issue than we were before, 21 despite this correspondence from Sound Transit and our commitment to fund the station. 22

There are many ways that this could be handled. We could say that no building over 90 feet could be built until there's a binding commitment for

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1 service at the station. We could -- we could rephrase 2 the project such that the first phase only includes 3 buildings up to 90 feet, and that still provides a stan- -- substantial amount of density. 4 5 All of these green buildings here, here, here, 6 here, here, and here are less than nine stories tall. 7 So they could be built without any sand- -- troun- --Sound Transit service. 8 9 So there are ways to handle that short of 10 saying, You don't have it now, so, therefore, you have 11 to have your application terminated. 12 There's one other interesting component to 13 this in that -- that the definition of high-occupancy 14 transit that is required to be served under the code 15 specifically includes passenger-only water taxis as 16 within that definition of a high-occupancy transit 17 vehicle. 18 We plan -- and include it in the supplement -to operate a passenger-only ferry between the site and 19 20 the Edmonds light rail station. That alone satisfies 21 the language of the requirement because it qualifies as 22 a high-occupancy transit vehicle under the county code. 23 It may not carry as many passengers as light rail, but 24 we didn't draft the code and that's what the code

allows.

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There's also the question about how much information is necessary regarding contamination of the This has been another long -- long, drawn out 4 discussion with the County. It started back when the 5 EIS was first underway. Actually, when the County issued its declaration of significance, which 7 specifically states that the SEPA review of the cleanup 8 will be bifurcated from the main project. It will be handled under the api- -- auscpices of Department of 10 Ecology under their remedial action plans. 11 And so for the purposes of our SEPA process, 12 the site should be assumed to be cleaned up and that --13 that the -- until that happens, obviously, no building 14 permits can be issued, but it's not part of this county 15 SEPA process. 16

That statement not only was in the declaration of significance but was included in draft chapters of the preliminary impact statement that was received and reviewed by the County, repeated on several occasions, as identified in our briefing.

And so that's another statement which appears to have been forgotten. We remind the County but get more and more comments about we need cleanup information, which we think appropriately goes to the Department of Ecology.

There are other issues regarding addressing shoreline and management regulations, things like that that I won't take the time now to respond generally to those. Those can be adequately handled by our consultants during their testimony next week.

But the bottom line, the most important thing is that we have made substantial progress. We have narrowed the issues, and we again commit that that process doesn't stop now. If there are further clarifications that are needed after the next County review and comments, we will make those. That's the way the process is supposed to work. We're supposed -- as is standard, go through more than our three rounds of review to get to that final product.

I was very interested to read the County's prehearing brief yesterday because I felt like this really supports our position, not the County's. It goes into great length about substantial conflicts.

There must -- there must be a substantial conflict with adop- -- adopted plans, ordinances, regulations, or laws.

To me "substantial" means unresolvable. Major and unresolvable. There aren't any unresolvable conflicts. We have gone from 179 issues of concern in the County's comment letter of October 6, 2017, to,

1 now, there are 12 in the most recent County 2 recommendation. And we believe, with our filings 3 yesterday, there's even fewer of those. So it's hard for me to imagine how, after 4 5 going from 179 to something closer to five, even being 6 generous in granting how many remain -- that's hardly a 7 substantial conflict. 8 And the County also talked about the standard 9 of review, one of reasonable doubt. Is there any 10 reasonable doubt that the County's grounds for denial 11 are sufficient? Well, yes, there's great reasonable 12 doubt when these can be handled by -- what items 13 haven't been resolved can be handled by permit 14 conditions, by deviations, and if they're not approved, 15 by redesign. 16 This process has taken a long time, and it's 17 taken longer than it should have. There's plenty of blame to go around, but it's not all on us by any 18 means. We're still working hard. You can see the 19 20 progress we've made. 21 We've made substantial progress. We think 22 we're there, but if we're not, we're not that far away. 23 And an extension would let us finish the process, let 24 the County have its issues satisfied, and let the

County have the population growth allocation satisfied

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    in the way that it was intended. Thank you.
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                  MR. SENG: My presentation is focused a
 3
    little bit more on -- on the design aspect.
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                  THE HEARING EXAMINER: And you're Mr.
 5
    Seng?
         We need to --
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                  MR. SENG: Yes, thank you.
 7
                  THE HEARING EXAMINER: There's no video,
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    so we need to -- to --
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                  MR. SENG: I -- I am Mr. Seng. I am an
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   architect at Perkins and Will, and I would like to
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    clarify that these drawings are put together by a large
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    team of professionals. I play a part in coordinating
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    those efforts, and in conceiving the -- the broader
14
    concept as -- as the architectural firm.
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             So some of the concepts I'm speaking to, I
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   have a surface understanding of, but there's much
    deeper understanding within the team and -- of the
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18
    technical requirements of the design that I can only
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    speak to a -- a certain degree about.
             So if there are -- I'll leave it at that.
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21
             So starting with a -- a brief site history,
    the surveys on record for this site indicate that this
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23
    Point Wells site was originally a salt marsh. It was
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    an ecologically rich biodiverse area. And in 1910, it
25
   was artificially filled and purchased by the Royal
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1 Dutch Shell Company, and between 1911 and 1950, they 2 operated this site as a petroleum storage facility. Between 1950 and 2005, Chevron owned the 3 site and continued to work on the site in the same 4 5 capacity, expanding the -- the role of the s- --6 storage, and you can see that in these central images 7 here with the additional petroleum storage tanks at the center of the site. 8 9 In 2005, Petrol- -- Paramount Petroleum took 10 over at the site, and additional asphalt production was 11 incorporated on -- in the northern portion. 12 2010, the site ownership was transferred over to Blue 13 Square Real Estate but -- and at that time, the 14 Brightwater easement and properties was also part of 15 the site. 16 On the screen now is the -- an aerial 17 photograph of the existing conditions, and the 18 topography plays a big part in a lot of the discussions that we're having. The site is divided into an upper 19 20 and a lower portion. The upper portion is -- is where 21 the primary access is, and it serves the lower portion with two trestle bridges, and the lower portion is on 22 the -- the water side. 23 24 The upper bluff is where the Chevron Creek 25 feeds into the site. It's captured by -- in a culvert

and piped across the railroad tracks to an existing outfall. And the wetland area to the east of the site and the landslide risk make this a challenging portion of the site.

The shoreline on the lower portion is divided into roughly three sections. The northern section is an armored shoreline with a boulder riprap. The western portion is where the -- the central offices are, and a sea wall that extends across roughly half of the -- the site. And then the southern portion is an existing graded beach with no reinforcement or -- or sea wall.

The pier that you see on the bottom of the image to the west is an operating marine fuel storage pump to get the -- the fuel out of the fuel barges into the -- the petroleum storage tanks on the site.

That -- that -- those activities are ongoing, and -- and our goal is to -- to make that pier part of the -- the project in the -- in the design that you'll see shortly.

The lower portion of the site is divided into three rough areas. There's the southern portion that is served by the -- the bridge I mentioned earlier.

That provides the -- the access to the Brightwater site on the southern portion, and that's largely under- --

undeveloped right there. There's very few structures
there.

The central portion is where the office structure is on the west here and the petroleum storage tanks, and then the northern portion is where the existing asphalt production facility lies.

Moving down to at grade, some of these image -- images help better understand the topography. The image to the top shows a view to the north, and it illustrates how close some of these structures are to the water and the elevation-level difference between the beach and the -- the lower bluff. They're actually quite close.

The lower portion sh- -- is a view from the pier looking back at the -- the office and the -- the petroleum storage tanks.

The image on the left illustrates the -- the vertical structures on the north end of the site for the asphalt production plant, and the right-side image is the bridge trestle over the -- the train tracks on the southern portion of the site.

On the upper left, again, you see the petroleum storage tanks come right up to the -- the water's edge on the north side of the site, and the office is literally right up against the water. And

that sits on the -- a sea wall of sheet piling.

This lower image on the -- the left, the view to the west, having been on the site, this -- the site is very low. It almost feels as though you're looking out at sea level when you're standing on the site. You can see the -- the boulder riprap to the north here and how eye level is -- is -- is just above sea level.

And then on the right, you can see how the asphalt operation is -- is -- is not a -- a clean situation, and it's something that, as Gary mentioned, would be remediated as part of this project.

So that's the -- sets the stage for the project concept, and how we conceived this design was as a series of villages. At 60 acres, and with over 2 million square feet required as part of the FAR, the villages are a way to provide density within certain zones and give each of those communities a -- a town center.

Within those villages, there are high-rise, mid-rise, and low-rise, and they're oriented this way so that we can take advantage of the scenery and some of open space that's created by the space between them when you further densify each of those villages. It also helps to minimize vehicular traffic in each of those areas because the vehicles can travel to a point

outside the village and park below, and the spaces in between become more pedestrian focused.

As you can see, the -- the crescents here, this is very diagrammatic, but it -- the double black lines indicate where the train tracks are. The crescents are oriented outward to the sea, and the idea with that is to orient each of the -- the towers' and the residential units views' to the sea and to expose the -- the -- those units to additional daylight from the south and west. And then the lower buildings along the shore help enforce that.

Locating the towers to the back of the site also helps to reduce the view impacts from the neighbors on the upper bluff and to the south. And that was part of the concept to lower the elevation of the -- the buildings on the southern portion as well.

So -- so that gets us to the site planning.

The access to the site is -- is primarily from Richmond

Breach Drive on the southern portion of the site on the

east side of the tracks, but there's also a second

access road up to 116th Avenue.

Within the urban plaza off of the Richmond

Beach Drive entrance, there's a bus terminal below and

parking access. The elevation of the road rises up to

the higher upper-bench elevation, and that is where we

1 have incorporated the commercial areas, the permanent 2 waste-collection service, and the community-services 3 building where we would have a security and emergency 4 medical response. 5 On this village, there are three towers. 6 They're 13 to 15 levels. The lower levels are shops, 7 and then a level of commercial office area above, and 8 then residential to the top within a mechanical 9 penthouse. 10 Within the upper plaza, there is then -- urban 11 plaza, there is access to the boulevard across the --12 the new bridge. And that -- that boulevard then 13 provides access to the shoreline. At the terminus, 14 there's a turnabout. 15 But one of the components that we've 16 incorporated since the -- the April 2017 submittal is additional service-access roads around each of these 17 18 villages. And that was based, in large part, on the outcome of the meeting that Gary mentioned earlier with 19 20 the fire marshal and with Ryan Countryman. And you can 21 see that with these roads around the Central Village and around the -- the North Village. 22 23 Along the boulevard, there is access to the east side of the South Village down to the beach. And 24

what that does is it provides a second access to each

1 one of the villages so that fire service access is 2 maintained, and there's a -- a second way out in the 3 event of an emergency. We've also provided vehi- -- truck vehicle 4 5 access to the esplanade, and that esplanade rings the 6 entire site and -- and ties back in with the woodland 7 road on the north end. 8 Coming back to the boulevard, that boulevard 9 enters the -- the western side of the site past the 10 community building and then down to the -- the 11 roundabout for access into the -- the South Village. 12 Through the South Village, there are 13 buildings, and that is comprised of six towers. 13 14 They're 11 to 16 levels each -- between 11 and 16 15 levels, excuse me. And then five of those are low-rise 16 buildings of three stories and two mid-rise. 17 Within that village, there's retail and residential access and access to beach parking and the 18 19 esplanade. The beach parking is on the south side of 20 the site here. And then this is the esplanade, which 21 provides access for the public along this low-graded 22 beach. 23 Moving north to the Central Village, within 24 the Central Village, there are commercial and

residential uses. There are twenty buildings total

1 with seven towers between 14 and 17 levels, and there 2 are six low-rise buildings and seven mid- -- sorry, 3 yeah, six low-rise and seven mid-rise. 4 The central courtyard incorporates an 5 opportunity for a playground, a safe environment to 6 have families. The -- within this -- this recent 7 submittal package, we also aligned the parking 8 quantities with the unit quantities. This is -- the 9 Central Village is the largest of -- of the four, and 10 previously we had submitted a -- a variance to allow 11 for more parking under the Central Village but -- and have since withdrawn that because we were able to meet 12 13 the requirement for parking in each of the villages 14 independently. 15 That has some advantages. It -- it meets the 16 code, for one, but it also means that we can have 17 phasing for each of these villages, and each one will 18 operate and have parking served within the village. Moving further north into the -- the North 19 20 Village, this is an all-residential village with four 21 towers, and those four towers are between 12 and 16 stories, I believe, and then there are three 22 23 mid-rise towers along the esplanade. 24 Each one of these villages, as I mentioned, 25 has two low- -- has below-grade parking. There are two



1 levels of parking beneath each of them. And the -- the 2 below-grade parking has been identified as a potential 3 flood risk, and I did want to speak to that briefly, in 4 that the esplanade serves as a -- as a -- a levy 5 against that, in that the entire elevation of the site is raised in order to bring the level of the site up to 7 the elevation of -- of the bridge, and then that 8 elevation drops as it moves westward. So the -- the 9 risk of flooding is significantly reduced in this 10 development from what the existing condition is. 11 The diagram I have up on the screen is the --12 the updated phasing plan. This is one of the documents 13 we -- we submitted yesterday to address one of the 14 recent comments. The -- the changes we made were to 15 modify the -- the phase of the station and include the 16 bridge as part of -- of Phase I. 17 The County correctly pointed out that -- that, in order to meet the requirements, the transit station 18 19 would need to be in place during that first phase, so 20 we made that change. 21 We originally had it in Phase III because the demand for a station would be much higher than this 22 23 initial phase would require. So that, we'll have to 24 address in some other way through the course of -- of

the correction cycles. But as Doug's -- as Gary said,

1 I think that the -- the kind of comments that we're --2 we're seeing we've been able to respond to and -- and 3 address with design response. So just guiding -- guiding through the phasing 4 5 briefly: Phase I is the southern village, and the 6 access to Phase I would be a temporary road and ramp up to a new bridge that would be part of Phase I. 7 8 bridge would provide access along the -- the boulevard that I pointed out, and it would include all of the --9 10 the work within the -- the South Village. It would 11 include the community building and the energy center 12 beneath the community building, which would provide the 13 necessary utilities to power and heat the -- the 14 buildings there. It would also include the transit 15 station, and the secondary access road. 16 Phase I meets the requirements of the code at -- at 17 that first stage. 18 Then Phase II would be the upper lot that would include the -- the Envac waste-collection 19 20 service, the community service building I mentioned, 21 the three buildings, the -- the transit center and 22 parking beneath them. 23 And then Phase III is future development, and 24 that currently includes the Central Village and the 25 North Village and all of the public amenities

associated with that, as well as the public amenity on the pier, when that's converted from its existing operation and the -- and the bridge trestles are replaced.

At this time, there are four deviations and variances that we have submitted with the application materials on April 30th. These are the deviations from the road-design standards to allow for a private road to serve a lot. And the purpose of this is, because of the -- the configuration of the -- the site and the unique circumstance that we're in, these private roads would be maintained by the -- the owner as opposed to the -- to the County. And you'll hear more about that in the testimony from our civil engineer.

Two other deviations are related to landslide areas and building within them. One is for building an access road in a landslide area, and the other is for constructing buildings in a landslide area. And these are within that upper bluff area in the urban plaza that we're submitting those -- those variances. And our geotechnical engineer has written a -- a narrative to accompany those requests.

And then the -- the final variance is for the increased height and massing that Gary mentioned earlier on that urban plaza area. And I -- these

1 images are part of that variance. In yellow, we have 2 indicated what the code-compliant massing would be and 3 the required setbacks. And that 180-foot massing is illustrated on this lower image here. And then in red 4 5 is the proposed massing and height on the floor plan on 6 the right and on the aerial image to the left. 7 Our proposal here is, as Gary described, to 8 locate those buildings up against the -- the hillside, for one, to provide -- to maintain the access to the 9 10 bridge, which is the sole access in and out for -- for 11 egress val- -- emergency vehicles and the resident 12 vehicles to Richmond Beach Drive, and then the -- and then the -- sorry, I -- it's not the sole access; 13 14 it's -- it's a primary access. 15 And then the other reason is, from an 16 urban-design standpoint, having these buildings set 17 back and ringed -- ringing that entrance, it -- creates 18 a much better pedestrian environment and vehicular environment for circulation through the site. It also 19 20 helps preserve the views from the residents on the --21 on the south side of the site . The last component is that it would -- there 22 would be need -- there would need to be some 23 24 development up here to meet that FAR of 1.0, if we were 25 to look at this independently. But there is the

possibility of increasing height elsewhere on the site, 1 2 and that is another possible alternative if this one is 3 not deemed acceptable. This is a -- an aerial im- -- image from --4 5 from the water, just showing what the relationship of 6 the -- the pier is to the buildings and the -- the 7 var- -- the difference in height between the -- the 8 low-rise, the mid-rise, and the high-rise that are 9 referred to. 10 You can see how the -- the buildings step down 11 as they approach the -- the residential development to 12 The towers on either side of the boulevard the south. 13 serve as the gateway elements to the -- to the Puget 14 Sound. And you can see that repeating on the -- the 15 Central Village here, and the variance in height was 16 part of the design concept from very early on, as 17 opposed to providing a single-elevation across the whole hei- -- whole site. 18 The building heights are varied in order to 19 20 provide some visual interest and to take advantage of 21 the -- the views and prioritize those for the residents on the site and around the site. 22 23

Moving now into the amenities that have been proposed as part of this project, this is an illustration of the public beach on the primary access

24

points along the public -- along the esplanade that 1 2 provide access. And these are some of the 3 illustrations that have come out of our wind-and-wave analysis over the last two to three months to 4 5 illustrate that this -- this approach is viable, and it 6 can be engineered to address the risks associated with 7 building in the shoreline. 8 Along this northern portion of the beach, 9 where there is the existing boulder riprap that I 10 mentioned, the proposal would be to take that -- remove 11 that riprap and cut the grade back down to more of a natural condition, and the esplanade is set back far 12 13 enough to be able to remove substantial portions of 14 that reinforced shoreline. 15 And along reach two here, where there's an 16 existing sea wall and the office building that you saw 17 earlier in the images, the approach would be very 18 similar. And -- and based on the site topography that we have at hand from the surveys, this is a pretty 19 20 gentle beach that can be created along this portion 21 of -- of the site to restore that as well. 22 As a result, these are large -- in large part, 23 the mitigation for the work that is taking place up on 24 the -- the upper bench. The -- the restoration plans

that are submitted with the documents show that this

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beach is able to be restored and significantly enhance the conditions for wildlife there and be a significant tradeoff for the impacts that are having -- happening 4 on the -- the upper bench.

This is a view of some of the concepts for how one would access the -- the esplanade. And on this lower image here, you can see how it's a rather gentle slope from the residential -- the lowest level of residential development, and the low-rise towers' access to the beaches is -- is fairly shallow. there is an elevation change at the esplanade, and then another es- -- elevation change at the line of those lower buildings.

And landscape has been a significant aspect of The landscape designer conceived this -- this site as a continuation of the -- the densely wooded hillside, and it cascades all the way down to the waterline and then transitions to these reeds that are planted within the -- the tideland.

These illustrations show the -- the boulevard and the emphasis that we've placed on pedestrian Each of the roads has a -- a sidewalk and a access. bike lane on that shared-access road. And the boulevard across the bridge is divided, and then the trees line the street coming in. And at the terminus

of the boulevard, there's a proposed art element like a water feature. And that -- that water feature would then access -- provide access to the amphitheater, and that amphitheater is alongside the pier access. And this is an artist's rendition of what we have envisioned for that area.

The pier is another public amenity. They will have access to this over-thousand-foot length of pier. It'll incorporate landscape elements, artwork, some water-dependent uses -- and that's another element that we've recently modified, that we've taken away the commercial aspects on the pier, as that was identified as in conflict with the shoreline master plan.

The proposal remains to provide a floating dock with pleasure craft, nonmotorized, and there might be a small rental facility there for a kayak or a canoe, and some other water-dependent uses: fishing supplies or something along those sort. And here's the artist's rendition of what that pier could look like.

This diagram illustrates some of the proposals for sustainable elements that are incorporated on the site. The water storage and reuse would allow us to reduce the amount of water that a development like this would generate by up to 40 percent.

The energy uses an on-site district energy

system that can be scaled based on the number of units in each of the phases. But long term, the idea is to use biomass and tertiary waste treatment to generate enough gas to -- to heat the entire development. The carbon reduction through some of these strategies would reduce the -- the carbon generated on this site from the current-day 25,000 tons to roughly 1,000 tons, and that is a 90 percent reduction in carbon.

And the transportation proposed here would include a -- a transit center that has access to the commuter rail, has access to King County Metro buses, as well as a shuttle service that would get people and residents up to the light rail and to State Route 99 where there's significant transit service.

This view illustrates the South Village. It's a still from the animation you saw earlier. It illustrates also the possibility for solar panels on the roof, use of green roofs to mitigate the heat island effect from those low buildings, and you can see how each of these villages can provide access to the —the beach in between those low-rise units.

So I'm moving now into the -- the proposed building materials. Each of the buildings has a typology that we've suggested. The low-rise typology incorporates fixed wood screens, as well as railings

1 that are transparent and shading elements, and then 2 operable windows and operable wood screens so that 3 there's variation of -- in the facade and a way for the 4 residents to mitigate the solar impacts. And here are 5 some elevations with those materials indicated on them. 6 The mid-rise typology is of the same language, 7 more of the -- the wood screens, but the taller 8 buildings, we go to a hardier material, either a 9 terra cotta or a high-pressure laminate or a -- or a 10 metal panel, and the base is something more solid, a 11 stone or a concrete material. And that language you 12 can see in some of the images on the -- the right side 13 here. 14 We're looking for something that is -- that 15 represents the Northwest, use -- a lot of use of wood, 16 use regional materials, a lot of recycled materials. 17 And you can see the representation of the mid-rise 18 buildings on this drawing. 19 And lastly, the -- the high-rise typology, 20 more of the same with the wood screens. 21 adapted slightly to work with the -- the more vertical 22 element, and that would occur along the -- the

midsection of the tower. The metal panel or the terra

cotta, that would be infill at the opaque portions of

the -- the tower, and then the base would be the

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1
    concrete or the tile again. And these are some of the
 2
    elevations that were included in the April 30th package
 3
   to respond to the request for those drawings.
 4
             And that brings me to the close of the
 5
   presentation on the architectural components. Thank
 6
   you.
 7
                  THE HEARING EXAMINER: All right.
 8
                  MR. VASQUEZ: Just a procedural issue,
9
   Your Honor, an exhibit was introduced at the beginning
10
   as P-1.
11
                  THE HEARING EXAMINER: Yes.
12
                  MR. VASQUEZ: Would you like us to move
13
    for entry of the exhibit to give the --
14
                  THE HEARING EXAMINER:
                                        No.
15
                  MR. VASQUEZ: -- County opportunity --
16
                  THE HEARING EXAMINER: [Unintelligible].
17
                  MR. VASQUEZ: -- to object?
18
                  THE HEARING EXAMINER: Generally speaking,
    the way I do it is, unless there's objection, it'll be
19
20
   deemed admitted.
21
                  MR. VASQUEZ: Okay. Thank you, Your
22
   Honor.
23
                  THE HEARING EXAMINER: That -- that makes
    things a whole lot easier, and this isn't -- this is
24
25
   quasi-judicial, so we can do that.
```



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1
                  MR. VASQUEZ: I'm use to the judicial, so
 2
   you have to excuse me.
 3
                  THE HEARING EXAMINER: I -- I share your
 4
   pain. I know. Me, too.
 5
                  THE CLERK: [Unintelligible].
 6
                  THE HEARING EXAMINER: Yeah, this is --
 7
   now, is this one already in -- in the record?
 8
                  THE CLERK: [Unintelligible].
9
                  MR. VASOUEZ: So we'll -- we'll move to
10
    introduce this as Exhibit P-2.
11
                  MALE VOICE: Correct.
12
                  THE HEARING EXAMINER: Generally speaking,
13
    I am allergic to having documents or things referred to
14
    in testimony if they're not in the record. So...
15
                  MR. VASQUEZ: That -- that concludes our
16
   presentation, Your Honor. Thank you.
17
                  THE HEARING EXAMINER: Okay. Thank you.
             The only question I had was where did all that
18
    sand come from? Because most of the Northwest beaches
19
20
    I've been on are pretty rocky. Just saying.
21
             Okay. Well, the plan had been to spend our
22
    time on the applicant's presentation this afternoon and
23
    then go to the County tomorrow morning. Is the County
24
   ready to proceed this afternoon, or will we be in
25
   recess until tomorrow morning?
```

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1
                  MR. OTTEN: No, I think we need a few more
 2
   hours to respond to what we received last night, so we
 3
   might take advantage of...
 4
                  THE HEARING EXAMINER: I suspected that
5
   might be the case.
6
                  MR. OTTEN: Yeah.
 7
                  THE HEARING EXAMINER: Okay. So we'll be
8
   in recess, then, until 9:00 tomorrow morning. We'll
9
   hear from the County at 9:00 tomorrow morning, and then
10
   we'll start at 1:00 with public comment. Thank you.
11
             (Proceedings recessed at 3:40 p.m., to be
12
              reconvened May 17, 2018, at 9:00 a.m.)
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1	TRANSCRIPTION CERTIFICATE
2	
3	I, ELEANOR J. MITCHELL, the undersigned Certified Court
4	Reporter in and for the State of Washington, do hereby
5	certify:
6	That the foregoing transcript was transcribed under my
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L1	event of the cause.
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L6	Jest May January Contract
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